

JOURNAL OF THE HOUSE.

Thursday, October 18, 2007.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, we depend upon You and Your always available assistance in our daily effort to cope with the stress of our daily routine and the many demands which are made upon our energies, creativity and time. In evaluating legislative proposals and constituent expectations, inspire us to develop, as a society, a shared common vision. May this new reality serve, in a beneficial manner, people, society and our neighborhoods. In Your goodness, teach us to make our communities and neighborhoods stable, peaceful and prosperous with job opportunities for all in this new era of technology and information.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to establishing and funding the Massachusetts broadband institute (House, No. 4311) was filed this day in the office of the Clerk.

Broadband
Institute,
funding.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Telecommunications, Utilities and Energy. Sent to the Senate for concurrence.

Statement of Representative Forry of Boston.

A statement of Ms. Forry of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not be present in the House Chamber for a portion of today's sitting due to official business in another part of the State House, attending a committee hearing. My missing the quorum roll call today was due entirely to the reason stated.

Statement of
Representative
Forry of
Boston.

Communication from the City of Waltham.

A communication from the city of Waltham, transmitting resolutions adopted by the city council and endorsed by the mayor of said city, expressing support of House bill No. 3119, relative to property tax classification in cities and towns, was spread upon the records of the House.

Waltham,
tax
classification.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Leslie A.
Lewis.

Resolutions (filed by Ms. Allen of Boston) honoring Leslie A. Lewis on his many years of dedicated service to the Prince Hall Masonic family;

Korean War
Memorial.

Resolutions (filed by Mr. Binienda of Worcester) on the occasion of the dedication of the Korean War Memorial in Central Massachusetts;

Drowsy
Driving
Prevention
Week.

Resolutions (filed by Mr. Fernandes of Milford and other members of the House) congratulating the National Sleep Foundation on its observance of the week of November 5, 2007 to November 11, 2007 as Drowsy Driving Prevention Week;

Ellen
Feingold.

Resolutions (filed by Ms. Khan of Newton and other members of the House) honoring Ellen Feingold for twenty-five years of dedication and leadership at Jewish Community Housing for the Elderly; and

Niagara
Movement.

Resolutions (filed by Ms. Malia of Boston and other members of the House) recognizing the 1907 meeting in Boston, Massachusetts of the Niagara Movement;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Linsky of Natick, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

Blood
donations,
minors.

By Mr. Kaufman of Lexington, petition (subject to Joint Rule 12) of Jay R. Kaufman and others relative to the donation of blood by certain minors.

Worcester,
bilingual
ballots.

By Representative Pedone of Worcester and Senator Augustus, joint petition (subject to Joint Rule 12) of Vincent A. Pedone and others (with the approval of the mayor and city council) that the city of Worcester be authorized to provide bilingual ballots for municipal elections in said city.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

Boston,
land
conveyance.

The House Bill authorizing the conveyance of certain parcels of land in the city of Boston (House, No. 4185) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2347.

Under suspension of the rules, on motion of Mr. Walsh of Boston, the amendment was considered forthwith.

The House then non-concurred with the Senate in its amendment; and the bill was returned to that branch endorsed accordingly.

Bills

Requiring the identification of burial grounds and cemeteries on certain state-owned land (Senate, No. 28) (on a petition);

Burial grounds
and cemeteries.

To encourage adoption and foster care in the Commonwealth (Senate, No. 112) (on a petition);

Adoption and
foster care.

Amending the enclosure for public and semipublic outdoor in-ground swimming pools (Senate, No. 2363) (on Senate bill No. 2307); and

Swimming
pools,
enclosure.

Protecting consumers from unsolicited loans (Senate, No. 2364, amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2365) (on Senate bill No. 565);

Consumers,
unsolicited loans.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

A Bill authorizing the town of Dedham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2336, amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2228) (on Senate, No. 2228) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Dedham, liquor
license.

A report of the Department of Public Health (under the provisions of sections 5 and 20 of Chapter 111 of the General Laws) relative to an inspection of the South Middlesex Pre-Release Center, in the town of Framingham, was spread upon the records of the House; and returned to the Senate.

South
Middlesex
Pre-Release
Center,
inspection.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Patricia A. Haddad and others for legislation to establish a training program for the teaching of self-control by athletes participating on school and organized sports teams. Under suspension of the rules, on motion of Mrs. Haddad of Somerset, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Education. Sent to the Senate for concurrence.

Sports
teams,
self-control.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill relative to mental health services in Massachusetts correctional institutions, houses of correction and jails (House, No. 1887),— and recommending that the same be referred to the committee on Ways and Means. Under Rule 42, the report was considered forthwith; and it was accepted.

Mental
health
care.

Recess.

Recess.

At ten minutes after eleven o'clock A.M., on motion of Mr. Hynes of Marshfield (Mr. Petrolati of Ludlow being in the Chair), the House recessed until the hour of one o'clock P.M.; and at twenty-six minutes before two o'clock the House was called to order with Mr. Petrolati in the Chair.

Quorum.

Quorum.

Mr. Marzilli of Arlington thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,
yea and nay
No. 191.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 145 members were recorded as being in attendance.

[See Yea and Nay No. 191 in Supplement.]

Therefore a quorum was present.

Health care
access.*Motion to Discharge a Certain Matter in the Orders of the Day.*

Mrs. Walrath of Stow moved that the House Bill relative to health care access (House, No. 4290), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time.

Pending the question on passing the bill to be engrossed, Mrs. Walrath moved to amend it by inserting after section 3 the following two sections:

"SECTION 3A. Section 2 of chapter 32A of the General Laws, as so appearing, is hereby amended by striking out, in lines 49 and 50, the words 'following loss of dependent status under the Internal Revenue Code' and inserting in place thereof the following words:— after the end of the calendar year in which such persons would fail to qualify as dependents under 26 U.S.C. 106.

SECTION 3B. Paragraph (2) of subsection (a) of section 2 of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following subparagraph:—

(Q) If an employee participates in an employer-provided health insurance plan, any amount which, but for this section, would be included in gross income of the employee by reason of coverage under the plan of any person other than the employee, to the extent such coverage is mandated by Massachusetts law."; by inserting after section 26 the following five sections:

"SECTION 26A. Section 108 of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in lines 33 and 34, the words 'following loss of dependent status under the Internal Revenue Code' and inserting in place thereof the following words:— after the end of the calendar year in which such persons would fail to qualify as dependents under 26 U.S.C. 106.

SECTION 26B. Section 110 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 379 and 380, the words 'loss of dependent status under the Internal Revenue Code' and inserting in place thereof the following words:— the end of the calendar year in which such persons would fail to qualify as dependents under 26 U.S.C. 106.

SECTION 26C. Section 8Z of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words 'following loss of dependent status under the Internal Revenue Code' and inserting in place thereof the following words:— after the end of the calendar year in which such persons would fail to qualify as dependents under 26 U.S.C. 106.

SECTION 26D. Section 4Z of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words 'following loss of dependent status under the Internal Revenue Code' and inserting in place thereof the following words:— after the end of the calendar year in which such persons would fail to qualify as dependents under 26 U.S.C. 106.

SECTION 26E. Section 4R of chapter 176G of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words 'following loss of dependent status under the Internal Revenue Code' and inserting in place thereof the following words:— after the end of the calendar year in which such persons would fail to qualify as dependents under 26 U.S.C. 106."; by striking out section 32 and inserting in place thereof the following two sections:

"SECTION 32. Section 3B shall take effect for taxable years beginning on or after January 1, 2007.

SECTION 33. Sections 2, 3A, 4, 10, 26A, 26B, 26C, 26D, and 26E shall take effect on January 1, 2008."; and by inserting before the enacting clause the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith access to health care, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendments were adopted.

Mrs. Walrath then moved to amend the bill by striking out section 29 and inserting in place thereof the following section:

"SECTION 29. Chapter 58 of the acts of 2006 is hereby amended by striking out section 136 and inserting in place thereof the following section:—

Section 136. The website established under section 16L of chapter 6A of the General Laws shall be operational and shall include links to other websites that display comparative cost and quality information no later than September 1, 2007. The website shall include comparative cost information by facility, clinician or physician group practice for obstetrical services, physician office visits, high-volume elective surgical procedures, high-volume diagnostic tests, and high-volume therapeutic procedures no later than March 1, 2008. Cost information shall include the average payment made on behalf of insured patients for each service or category of service received by each facility, clinician or physician practice. The

Health care
access.

council shall not publicly release the payment rates of any individual insurer which shall not be deemed public records.”.

The amendment was adopted.

Mr. Mariano of Quincy then moved to amend the bill by inserting after section 28 the following section:

“SECTION 28A. Section 4 of chapter 176Q, as so appearing, is hereby amended in the first sentence by inserting after the words ‘as defined in this chapter’ the words:—, provided that the connector shall not actively solicit for enrollment in health benefit plans offered through the connector eligible groups that have been insured under an employer group health plan during the previous six months.”.

The amendment was adopted; and the bill (House, No. 4310, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Reports of Committees.

By Mr. Mariano of Quincy, for the committee on Financial Services, on House, No. 4085, a Bill protecting and preserving home ownership (House, No. 4306), which was read.

Under suspension of the rules, on motion of Mr. Mariano of Quincy, the bill was read a second time forthwith.

Pending the question on ordering the bill to a third reading, Mr. Fallon of Malden moved to amend it in section 2 by striking out the last sentence.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call (Mrs. Harkins of Needham being in the Chair) 36 members voted in the affirmative and 113 in the negative.

[See Yea and Nay No. 192 in Supplement.]

[Messrs. Bosley of North Adams and Spellane of Worcester answered “Present” in response to their names.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out section 5 and inserting in place therein the following section:

“SECTION 5. Chapter 184 of the General Laws is hereby amended by inserting after section 17B the following section:—

Section 17B½. No mortgage who makes a loan to a borrower, to be secured by a mortgage on owner-occupied, 1 to 4 family real estate in the commonwealth, shall make a subprime loan at a variable or adjustable rate of interest unless the mortgagor received an educational pamphlet, and in the case of a first time home loan borrower, unless the mortgagor affirmatively opts in writing for the variable or adjustable rate subprime loan. An educational pamphlet may include, but shall not be limited to, any informational material which clearly and plainly identifies the various types of home loans, including the specific nature of a subprime loan at a variable or adjustable rate of interest, produced by either: (1) the United States Department of Housing and Urban Development; (2) a housing

financing agency of the commonwealth; (3) the Massachusetts Homeownership Collaborative; (4) a regulatory agency which has jurisdiction over the creditor; (5) or the division of banks. The commissioner shall maintain a list of approved educational pamphlets. At or before closing such a loan, the mortgagee shall obtain evidence that the mortgagor has received an approved educational pamphlet and understands the contents contained therein. If such subprime mortgage loan is made by a mortgagee in violation of this section, the variable or adjustable rate terms of the loan shall not be enforceable and the mortgagee shall only be entitled to collect an interest rate equal to the lesser of the original interest rate, including any discounted rate, or the current adjusted interest rate throughout the remaining term of the loan. The commissioner of banks shall issue directives or guidelines or adopt regulations to administer and carry out this section and to further define the terms used in this section.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 21 members voted in the affirmative and 129 in the negative.

[See Yea and Nay No. 193 in Supplement.]

[Messrs. Bosley of North Adams and Spellane of Worcester answered “Present” in response to their names.]

Therefore the amendment was rejected.

Representatives Mariano of Quincy and St. Fleur of Boston then moved to amend the bill in section 10, in the second paragraph, clause (a), by striking out the clause and inserting in place thereof the following clause: “(a) origination of loans and other efforts to assist low and moderate income residents, without distinction, to be able to acquire or to remain in affordable housing at rates and terms that are reasonable considering the lender’s history with similarly situated borrowers, the availability of mortgage loan products suitable for such borrowers, and consistency with safe and sound business practices”, in section 12, in subsection 3, in paragraph (a), by striking out the figures “\$750” and inserting in place thereof the figures “\$500”, in paragraph (b) by striking out the text contained in the paragraph and inserting in place thereof the following paragraph: “(b) An applicant shall have completed a residential mortgage lending course, approved by the division, not later than the 2 year period immediately preceding the date of the application.”, and in subsection 6 by striking out the figures “750” and inserting in place thereof the figures “500”.

The amendments were adopted.

On the question on ordering the bill to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. Hynes of Marshfield; and on the roll call 148 members voted in the affirmative and 3 in the negative.

[See Yea and Nay No. 194 in Supplement.]

[Mr. Bosley of North Adams answered “Present” in response to his name.]

Therefore the bill, as amended, was ordered to a third reading.

Home
ownership.

Amendment
rejected,
yea and nay
No. 192.

Amendment
rejected,
yea and nay
No. 193.

Bill ordered
to a third
reading,
yea and nay
No. 194.

Subsequently under suspension of the rules, on motion of Mr. Mariano of Quincy, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 4306, printed as amended) then was sent to the Senate for concurrence.

Southampton,
bridge.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Senate Bill designating a certain bridge in the town of Southampton as the Southampton Veterans Memorial Bridge (Senate, No. 2066) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Kocot of Northampton, the bill was read a second time forthwith; and it was ordered to a third reading.

Orders of the Day.

Third
reading
bill.

Mr. Donato of Medford being in the Chair,—

The Senate Bill authorizing the conveyances of certain easements in the towns of Lynnfield, Saugus and Wakefield to the Tennessee Gas Pipeline Company (Senate, No. 2211, amended), reported by the Committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Sent to the Senate for concurrence in the amendments previously adopted by the House.

ri

The Senate Bill establishing a sick leave bank for Lori Silva, an employee of the Trial Court (Senate, No. 2351), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

ri

The House Bill establishing a sick leave bank for Dorothy Lafratta, an employee of the Department of Transitional Assistance (House, No. 4249), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Order.

Next
sitting.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at seventeen minutes after four o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.